

explanation that his failure to register was neither knowing nor willful.

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FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 326

RIN 3064-AC19

Minimum Security Devices and Procedures and Bank Secrecy Act Compliance

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Withdrawal of notice of Proposed Rulemaking.

SUMMARY: The Federal Deposit Insurance Corporation (FDIC) published a Notice of Proposed Rulemaking in the **Federal Register** on December 7, 1998. The proposed regulation would have required state nonmember banks to develop and maintain "Know Your Customer" programs. The FDIC received 254,394 comments from the public during the comment period. The overwhelming majority of the commenters were strongly opposed to the adoption of the proposed regulation. After considering the issues raised by the comments, and in view of the strong opposition to the proposed regulation, the FDIC is withdrawing the Notice of Proposed Rulemaking.

DATES: Proposed subpart C to part 326 is withdrawn on March 29, 1999.

FOR FURTHER INFORMATION CONTACT: Carol A. Mesheske, Chief, Special Activities Section, Division of Supervision (202) 898-6750, or Karen L. Main, Counsel, Legal Division (202) 898-8838.

SUPPLEMENTARY INFORMATION:

I. Background

On December 7, 1998, the FDIC published a proposed amendment to Part 326 of the FDIC's Rules and Regulations, "Minimum Security Devices and Procedures and Bank Secrecy Act Compliance" (63 FR 67529, Dec. 7, 1998). The proposed amendment was intended to provide guidance to state nonmember banks to facilitate and ensure their compliance with existing federal reporting and recordkeeping requirements, such as those found in the Bank Secrecy Act. It was intended to help protect the integrity and reputation of the financial services industry and assist the government in its efforts to combat money laundering and other

illegal activities that might be occurring through financial institutions.

The proposed amendment required each state nonmember bank to develop a program to determine the identity of its customers; determine its customers' sources of funds; determine the normal and expected transactions of its customers; monitor account activity for transactions that are inconsistent with those normal and expected transactions; and report any transactions of its customers that are determined to be suspicious, in accordance with the FDIC's existing suspicious activity reporting regulations.

The FDIC's proposal was substantially the same as the regulations proposed by the Board of Governors of the Federal Reserve System, the Office of the Comptroller of the Currency, and the Office of Thrift Supervision in December 1998. The FDIC issued the proposed amendment pursuant to its authority under section 8(s)(1) of the Federal Deposit Insurance Act (FDI Act) (12 USC 1818(s)(1)), as amended by section 2596(a)(2) of the Crime Control Act of 1990 (Pub. L. 101-647), which requires the FDIC to issue regulations directing banks under its supervision to establish and maintain internal procedures reasonably designed to ensure and monitor compliance with the Bank Secrecy Act. The FDIC also relied on its general rulemaking authority under section 9(a) of the FDI Act (12 USC 1819(a)).

II. Comments Received

During the comment period, the FDIC received 254,394 comments from the public. Comments were received from community banks, multinational or large regional banks, members of Congress, trade and industry research groups, and regulatory bodies, as well as the general public. Only 105 commenters were in favor of the proposed regulation.

The overwhelming majority of commenters were individual, private citizens who voiced very strong opposition to the proposal as an invasion of personal privacy. Other issues raised by these commenters included that the FDIC lacked the authority to issue the proposal; the cost of any Know Your Customer program would be passed on to customers; and the regulation would be ineffective in preventing money laundering and other illicit financial activities.

Banks, bank holding companies and other banking trade groups that commented on the proposal uniformly opposed the proposed amendment. Their concerns included the following: (1) the regulation would be very costly

to implement, especially for small banks; (2) the Know Your Customer program would invade customer privacy; (3) commercial banks would be unfairly disadvantaged and lose customers if all segments of the financial services industry are not covered; (4) compliance with the regulation would divert resources from Y2K preparation; (5) the FDIC lacks authority to adopt the regulation; (6) public confidence in the banking industry would be harmed by the regulation; and (7) the regulation is both unnecessary and redundant, as banks are already familiar with their customers and have adequate procedures in place.

III. Paperwork Reduction Act

The FDIC submitted a collection of information associated with the Know Your Customer proposed rulemaking to the Office of Management and Budget for review. That request for review is withdrawn.

IV. Board Decision

The FDIC has carefully reviewed every comment received during the 90-day comment period. Based upon that review, and in light of the overwhelming objections raised by the public, the FDIC's Board of Directors has decided to withdraw the proposed regulation.

By Order of the Board of Directors.

Dated at Washington, D.C. this 23rd day of March, 1999.

Federal Deposit Insurance Corporation

Robert E. Feldman,

Executive Secretary.

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DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

12 CFR Part 563

[No. 99-12]

RIN 1550-AB15

Know Your Customer

AGENCY: Office of Thrift Supervision (OTS), Treasury.

ACTION: Proposed rule; withdrawal.

SUMMARY: The Office of Thrift Supervision ("OTS") published a Notice of Proposed Rulemaking in the **Federal Register** on December 7, 1998 that would have required savings associations to develop and maintain "Know Your Customer" programs. The Board of Governors of the Federal